



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Application of: Jim Perkins, et al.</b>	<b>Examiner: To be Assigned</b>
<b>Serial No.: 10/664,837</b>	<b>Atty. Docket No.: P03320</b>
<b>Filed: September 17, 2004</b>	<b>Art Unit: 3762</b>
<b>For: PHACOEMULSIFICATION NEEDLE</b>	

**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF  
OF NON-SIGNING INVENTOR UNDER 37 C.F.R. 1.47**

Commissioner of Patents  
Alexandria, Virginia 22313

HONORABLE SIR:

This is in Response to Notice to File Missing Parts mailed December 12, 2003

This application was filed on 17 September 2003, as application serial number 10/664,837.

One of the named inventors, Paul J. Ferreira, has left the employ of the Assignee to the present invention, and has refused to sign the Declaration and Power of Attorney or Assignment documents. Mr. Ferreira was sent papers to sign by Federal Express on 19 August 2003 and again on 19 November 2003, at his last known address of 15 Idlewood Place, Stamford, Connecticut 06905.

In a conversation on 29 January 2004, with the undersigned, Mr. Ferreira indicated that he would send the documents that had been sent to him back to Bausch & Lomb Incorporated within the next couple of days. The documents were never received.

The undersigned again called Mr. Ferreira on 18 February 2004, and left a message on his voicemail. Again on 19 February 2004, the undersigned called Mr. Ferreira who answered the phone and instructed the undersigned not to call him again and hung up.

Later on 19 February 2004, Mr. Ferreira called the undersigned and requested additional payments to sign the documents beyond that which was previously offered to him. The undersigned reminded him of his obligation to assist Bausch & Lomb from his Employment Agreement, which is attached to this Statement of Facts. Mr. Ferreira stated that in order for the undersigned to avoid the hassle of filing additional paperwork, he wanted more money. The undersigned refused.

As can be seen from the attached Employment Agreement and the facts stated above, inventor Ferreira has refused to sign documents assigning his co-invention to its rightful owner, Bausch & Lomb Incorporated, and therefore, this Statement of Facts is submitted to substitute for Mr. Ferreira's refusal to sign the appropriate documents.

This Statement is being made by the undersigned who has first-hand knowledge of the facts recited herein.

Respectfully submitted,



Michael L. Smith  
Reg. No. 35,685

DATE: March 19, 2004

Bausch & Lomb Incorporated  
One Bausch & Lomb Place  
Rochester, New York 14604-2701  
TEL: 636-226-3197